

Appeal No. 2014-1253

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

BRIESE LICHTTECHNIK VERTRIEBS GmbH,
HANS WERNER BRIESE,

Plaintiffs - Cross-Appellants,

v.

BRENT LANGTON, B2PRO, KEY LIGHTING, INC.,
SERGIO ORTIZ,

Defendants - Appellants.

**On Appeal from the United States District Court
for the Southern District of New York
Case No. 1:09-CV-9790 (SC) (MHD),
Judge Samuel Conti**

**APPELLANTS' UNOPPOSED OBJECTION AND MOTION TO
CORRECT THE CAPTION LISTING OF APPELLANTS**

Pursuant to Federal Circuit Rule 27, Appellants B2Pro, Key Lighting, Inc., Brent Langton, Sergio Ortiz and Edward C. Schewe, respectfully move to correct the caption listing of Appellants to include Edward C. Schewe as one of the Appellants.

In support of this motion, Appellants state as follows:

1. The parties have conferred and Appellees and Cross-Appellants do not oppose this motion.

2. Further, as set forth below and in the supporting Declaration of Edward C. Schewe, this motion is based on good cause.

3. The undersigned counsel, Edward C. Schewe counsel for the Appellants, should be included as one of the Appellants in the official caption in the Appeal as appealing with the Defendants in the district court, B2Pro, Key Lighting, Inc., Brent Langton and Sergio Ortiz, the issue of discovery sanctions imposed jointly and severally with the Defendants.

4. This listing of Appellants is reflected in the Notice of Appeal filed in the District Court and attached to the January 23, 2014 Notice of Docketing (ECF #1-1) and attached hereto as Exhibit A.

5. This listing of Appellants is also reflected in the Entry of Appearance for the undersigned filed 2/6/2014 (ECF #9) and refiled on 2/7/2014 (ECF #13), in the Certificate of Interest filed 2/6/2014 (ECF #10) and in the Docketing Statement filed 2/6/2014 (ECF #11).

6. This listing of Appellants is also reflected in the recent Motion for Extension of Time filed March 3, 2014 (ECF #18) and granted by the Court in the March 3, 2014 Order (ECF #19) and in the Appellants' Certificate of Compliance with Federal Circuit Rule 11(d) filed March 10, 2014 (ECF #20).

For the foregoing reasons, Appellants respectfully request that the Court grant this motion and correct the listing of Appellants to include Edward C. Schewe as one of the Appellants as set forth in the Notice of Appeal.

Dated: March 17, 2014

Respectfully submitted,

/s/Edward C. Schewe
Edward C. Schewe
SCHEWE & ASSOCIATES

*Counsel for Appellants, Key Lighting Inc., B2Pro,
Brent Langton, Sergio Ortiz and Edward C. Schewe*

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HANS WERNER BRIESE,

Plaintiffs - Cross-Appellants,

v.

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Defendants - Appellants.

**On Appeal from the United States District Court
for the Southern District of New York
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Judge Samuel Conti**

**DECLARATION OF EDWARD C. SCHEWE IN SUPPORT OF APPELLANTS'
UNOPPOSED OBJECTION AND MOTION TO CORRECT THE CAPTION LISTING
OF APPELLANTS**

I, Edward C. Schewe, declare as follows:

1. I am an attorney in the firm of Schewe & Associates and counsel for the Appellants in the above-captioned appeal. I provide this declaration upon personal knowledge and, if called as a witness, would testify competently as the matters recited herein.

2. I submit this declaration in support of Appellants' objection and motion to correct the listing of Appellants in the caption.

3. The undersigned counsel, Edward C. Schewe counsel for the Appellants, should be included as one of the Appellants in the official caption in the Appeal as appealing with the Defendants in the district court, B2Pro, Key Lighting, Inc., Brent Langton and Sergio Ortiz, the issue of discovery sanctions imposed jointly and severally with the Defendants.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: March 17, 2014

/s/Edward C. Schewe
Edward C. Schewe

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EXHIBIT A

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Attorneys for Defendants
Key Lighting, Inc., et al.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BRIESE LICHTTECHNIK VERTRIEBS
GmbH, et al.

Plaintiffs,

v.

KEY LIGHTING, INC., et al.,

Defendants.

) No. 09 Civ 9790 (SC) (MHD)

) **NOTICE OF APPEAL**

Notice is hereby given that Defendants Key Lighting, Inc., B2Pro, Brent Langton and Sergio Ortiz (collectively "Defendants") and Edward C. Schewe, counsel of record for Defendants (hereafter "Schewe") in the above-captioned case, appeal to the United States Court of Appeals for the Federal Circuit from the portions of the Court's Order re: denying defendants' motion for a new trial, denying defendants' renewed motion for judgment as a matter of law, granting in part and denying in part plaintiffs' motion for enhanced damages and attorney fees and granting plaintiffs' motion for a permanent injunction entered in this Action on December 18, 2013 that were adverse to Defendants (ECF No. 477) following the jury's verdict on October 10, 2013 (ECF No. 435), and from all adverse rulings or adverse interlocutory orders, judgments, decrees, decisions, opinions and jury instructions that merged into and became a part of those portions of the 12/18/2013 Order or verdict, that are related to those portions of the 12/18/2013 Order or verdict, and/or upon which those portions of the 12/18/2013 Order or verdict are based, including:

Defendants appeal the Court's Order re: awarding pre- and post-judgment interest dated January 8, 2014 (ECF No. 480), Order re: granting in part and denying in part Plaintiffs' motion for attorney's fees and costs of October 10, 2013 (ECF No. 434), Jury Instructions (ECF No. 433), Court's Order of July 12, 2013 (ECF No. 388), Court's Memorandum Order of November 8, 2012 (ECF No. 306) including the Order re: claim construction of October 25, 2011 (ECF No. 201) and Memorandum Order of November 9, 2010 (ECF No. 149), Court's Memorandum Opinion and Order of July 31, 2012 (ECF Nos. 297, 298) including the Court's Memorandum Order of February 11, 2013 (ECF No. 309), the Court's Endorsed Letter Order dated October 14, 2010 (ECF No. 131) including the Magistrate Judge's October 4, 2010 Memorandum Order (ECF No. 118), and Defendants and Schewe appeal the Court's Order of March 2, 2012 (ECF

No. 240) including the Court's Order of October 20, 2011 (ECF No. 194), the Magistrate Judge's October 5, 2011 Memorandum and Order (ECF No. 192) and the Magistrate Judge's January 10, 2011 Memorandum and Order (ECF No. 162).

Respectfully submitted,

Dated: January 17, 2014

By: /s/Edward C. Schewe
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Attorneys for Defendants,
Key Lighting Inc., B2Pro,
Brent Langton and Sergio Ortiz

CERTIFICATE OF INTEREST

Counsel for the Appellants, B2Pro, Key Lighting, Inc., Brent Langton, Sergio Ortiz and Edward C. Schewe, certifies the following:

- 1. The full name of every party or amicus represented by me is:**
B2Pro, Key Lighting, Inc., Brent Langton, Sergio Ortiz and Edward C. Schewe.
- 2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:** None
- 3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:** None
- 4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:**

Schewe & Associates: Edward C. Schewe

Tiajolloff & Kelly LLP: Edward P. Kelly

Dated: March 17, 2014

Respectfully submitted,

/s/ Edward C. Schewe
Edward C. Schewe

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*Counsel for Appellants, Key Lighting Inc., B2Pro,
Brent Langton, Sergio Ortiz and Edward C. Schewe*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 17, 2014 the foregoing APPELLANTS' UNOPPOSED OBJECTION AND MOTION TO CORRECT THE CAPTION LISTING OF APPELLANTS was electronically filed with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit via the appellate CM/ECF system and served or caused to be served a copy on all counsel of record by the CM/ECF system.

/s/ Edward C. Schewe

Edward C. Schewe

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*Counsel for Appellants, Key Lighting Inc., B2Pro,
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